

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
IN RE PHARMACEUTICAL INDUSTRY)	MDL No. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION)	Civil Action No.
_____)	01-CV-12257-PBS
)	
THIS DOCUMENT RELATES TO)	
)	Judge Patti B. Saris
<i>State of Montana v. Abbott Labs., Inc., et al..</i>)	
<i>02-CV-12084-PBS</i>)	
_____)	

**THE JOHNSON & JOHNSON DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT AGAINST THE STATE OF MONTANA**

The Johnson & Johnson Defendants respectfully move this Court for an order granting summary judgement against the state of Montana and for such other and further relief as the Court deems just and appropriate. The grounds for this motion are set forth in the Memorandum of Law in Support of Defendants' Joint Motion for Summary Judgment, and the accompanying Johnson & Johnson Defendants' Individual Memorandum in Support of Summary Judgment Against the State of Montana and the materials cited therein, the Johnson & Johnson Defendants' Individual L.R. 56.1 Statement of Undisputed Facts and the materials cited therein, the Declaration of Andrew D. Schau and the exhibits thereto, and the Declaration of Jayson S. Dukes Regarding Montana's Claims and the exhibits thereto.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d) the undersigned counsel hereby request oral argument on the issues set forth in this motion and the accompanying memorandum of law and declarations.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certify that counsel for defendants conferred with counsel for plaintiffs regarding the issues addressed in this motion, but were unable to resolve or further narrow the issues.

Respectfully submitted,

Dated: February 8, 2007

/s/ William F. Cavanaugh, Jr.

William F. Cavanaugh, Jr.

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CERTIFICATE OF SERVICE

I certify that on February 8, 2007, a true and correct copy of The Johnson & Johnson Defendants' Motion For Summary Judgment Against Montana was served on all counsel of record via LexisNexis File & Serve.

/s/ Andrew D. Schau

Andrew D. Schau